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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,684	01/24/2006	Paul Schluter	0119010-00132	2624
29177 7590 01/22/2009 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER PHAN, HANH	
			ART UNIT 2613	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,684	Applicant(s) SCHLUTER, PAUL	
	Examiner Hanh Phan	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 18, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19, 21 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12-15, 18, 20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by De Patre et al (US Patent No. 7,362,974).

Regarding claim 12, referring to Figures 6a-6g, De Patre et al teaches a method for determining a connection path and a wavelength channel that is unoccupied on optical transmission links of the connection path within a transparent optical network system, comprising:

generating a connection cost for each connection path available for connection setup and the associated wavelength channel (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67);

selecting the connection path with the associated wavelength channel having the minimum connection cost value (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67);

determining for each wavelength channel of the optical transmission link, a link weighting that is a function of the characteristics of the optical transmission link and the respective wavelength channel (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67); and

generating the connection cost value by evaluating at least one link weighting (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 13, De Patre et al further teaches wherein a network-wide channel weighting is assigned to each wavelength channel (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 14, De Patre et al further teaches wherein the network-wide channel weighting is determined via a channel weighting function (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 15, De Patre et al further teaches wherein the transparent optical transmission system is split into a plurality of virtual optical transmission sub-systems, each sub-system having a single optical wavelength channel with the determined link weightings assigned to the transmission links available in the sub-system and the sub-system is evaluated to determine the connection path having the

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minimum connection cost value and the associated wavelength channel (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 18, De Patre et al further teaches wherein the channel weighting function is a linear function that is dependent on the respective wavelength channel (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 20, De Patre et al further teaches wherein a current degree of usage of each optical wavelength channel within the transparent optical transmission system is determined or estimated, and wherein an occupancy status of the wavelength channels occupied by further connections is evaluated via the channel weighting function and the current degree of usage (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Regarding claim 23, De Patre et al further teaches wherein each link weighting in a connection path are added to generate the connection cost value (i.e., Figs. 6a-6g, col. 9, lines 10-59, col. 11, lines 6-56, col. 12, lines 1-41 and col. 13, lines 17-67).

Allowable Subject Matter

4. Claims 16, 17, 19, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ikeda et al (US Patent No. 7,242,860) discloses optical transmission system.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

/Hanh Phan/

Primary Examiner, Art Unit 2613